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1 Evgeni was never arrested or charged with or convicted of any crime regarding that
2 incident and never claimed ownership of the seized currency. Law enforcement asked
3 Evgeni a few questions, told him he could leave and that they would contact him if they
4 had any further questions. Since then, law enforcement has never contacted Evgeni about
that incident. As the PSR at Paragraph 11 reflects, Evgeni stated that the seized funds
were another person's and not his.

5 We respectfully request that the Court direct that paragraphs 9 and 10 be modified to reflect
6 the correct true facts.

7 **2. Objection to Paragraphs 12 and 13**

9 Although Borisov may have said that Evgeni intended to "provide the guns for the robbery",
10 there are no facts to support this representation. The facts related to that statement are that (1)
11 there were no guns seized from Kopankov at the time of his arrest, (2) there is no evidence that
12 Kopankov ever mentioned guns in any conversation or made any effort to obtain or provide any
13 guns.

14 In addition, and in all fairness, the government's own evidence also shows otherwise. See,
15 EK 0000216, at p. 7 - Conversation between Borisov and "Iko". Iko asks Borisov if Evgeni is
16 going to go with Borisov and Borisov clearly states that Evgeni is only going to show the
17 location and not go with him and Mr. Brooks, explaining that Kopankov does not have any
18 cover-up – masks, gloves, shoes, hoodie, etc., and cannot buy in Humboldt County.

19 EK 0000216, at p. 11 – Evgeni not going with them. Meeting at airport so they can rent a car
20 and leave in separate cars. (Note that Kopankov was driving a truck pulling a trailer). Then the
21 informant asks why a full trailer (the trailer is full with furniture),(and Borisov responds)
22 because Evgeni is moving to a new location and Borissov is coming there to work.

23 EK 216 (the only recorded conversation between Kopankov and Borisov makes no mention
24 of guns)

26 "What are you doing? How far you got? You are in Nebraska? When do you think you
27 will be in San Francisco? Monday Tuesday? Tuesday is tomorrow i cant get there
Tuesday? Can you get us on Wednesday? Everything else is ok? Like 100%?
28 Everything is there how it should be? We will be there Wednesday. I will tell you what

1 time to pick us up.. OK, we agreed you picking us up instead of renting a car. Ok, good
2 we'll figure it out. Ok ok bye."

3 EK 0000449-0000454, at p 3-4 – Iko and Borisov talking on 3/29/19. Borisov states that
4 only he and other guy going to do job. Not Kopankov. Iko complains that Kopankov is not
5 going to do job. Calls Kopankov a “chicken”.

6 Lastly is the Grand Jury testimony of FBI SA Rachel Hamilton, at p 19, where she
7 testified under oath that Kopankov’s only role was that he was going to show them where
8 the property was.

9 There are other places and factual matters in the evidence that confirm that the only role
10 that Kopankov was going to play in this plan was to just show where Victim 1 lived. But
11 the above citations are the most compelling.

12 Co-defendant Borisov’s unsubstantiated claim, if it ever was made, that Evgeni was going to
13 provide the guns drastically alters the seriousness of the offense as it relates to Evgeni. This
14 unsubstantiated rumor by co- defendant Borisov will likely impact this Court regarding the
15 seriousness of the offense and will also likely impact Evgeni’s classification level preventing
16 him from a camp placement.

17 We respectfully request that the Court direct that any allegations regarding Evgeni providing
18 guns be removed.

19
20 **3. Objection to Paragraph 14**

21 We respectfully request that the Court direct that any representation that Evgeni would drive
22 Borisov and Brooks to any property or that he would participate in any form of kidnapping or
23 robbery be removed. As set out above, all the evidence shows otherwise. In fact, as Pretrial
24 Service must know and as the government will agree, all such references were removed from the
25 draft Plea Agreement and the following Plea Agreement, which was executed by Evgeni, was
26 agreed to between counsel as exactly what the evidence would support. The following Plea
27 Agreement is what has been filed with the Court.

1 Beginning at least as early as March 2019 and continuing on to on or about April 3,
2 2019, I knowingly and intentionally conspired with Emanoel Borisov and Paul Brooks
3 to commit robbery affecting interstate commerce and to commit kidnapping. In March
4 2019, I agreed with my co-conspirators that Brooks and Borisov would travel from
5 Chicago, Illinois to the Northern District of California to kidnap and rob Victim 1. They
6 planned to wait for Victim 1 outside of his residence. As soon as Victim 1 was outside
7 of the gate to his property, my co-conspirators planned to forcibly take him to another
8 location and hold him there, against his will and by means of actual or threatened force
9 or violence, until Victim 1 told them the location of the drug proceeds. Once he told
10 them the location of the money, they planned to take the money and split it amongst
11 ourselves. I knew that Victim 1's money was proceeds from the marijuana trade.

8 **4. Objections to Paragraph 15**

9 We request that the Court direct that the following statement by the Informant be entirely
10 removed:

11
12 “[d]uring a meeting on April 1, 2019, Borisov called Kopankov and put him on speaker
13 phone. The CHS heard Kopankov say that he was prepared to hurt Sergey if he had to.
14 The CHS also stated Kopankov also stated over speaker phone that he would buy masks
and bring them to the airport.”

15 The reason we request that statement be removed is because there is NO recording of this
16 statement despite the fact that EVERY conversation between the Informant and Borisov was
17 done under the supervision of the government and every conversation was recorded. There is NO
18 SUCH RECORDING of the above alleged statement made by the Informant. We believe it lacks
19 any credibility and was completely fabricated to incriminate Kopankov, a feat for which the
20 Informant was paid hundreds of thousands of dollars. We feel that it is unfair to include that
21 unsubstantiated and self-serving representation in the Probation Report.

22 Another reason to remove that statement is that it is inconsistent with the recorded
23 statements below.

24 1. EK 0000449-0000454, at p 3-4 – Iko and Borisov talking on 3/29/19. Borisov states
25 that only he and other guy going to do job. Not Kopankov. Iko complains that Kopankov
is not going to do job. Calls Kopankov a “chicken”.

26 2 EK 0000216, at p. 7 - Conversation between Borisov and “Iko”. Iko asks Borisov if
27 Evgeni is going to go with Borisov and Borisov clearly states that Evgeni is only going to
28 show the location **and not go** with him and **Mr. Brooks, explaining that Kopankov**

1 **does not have any cover-up – masks, gloves, shoes, hoodie, etc., and cannot buy in**
2 **Humboldt County.**

3 EK 0000216, at p. 11 – Evgeni not going with them. Meeting at airport so they can rent
4 a car and leave in separate cars. (Note that Kopankov was initially driving a truck pulling
5 a trailer and that there were no masks or any other items that could be used to commit the
offense in the possession of Kopankov at the time of his arrest.

6 Grand Jury testimony of FBI SA Rachel Hamilton, at p 19. Testified under oath that
Kopankov was only going to show them where the property was.

7 Again, these unsubstantiated remarks in the PSR make Evgeni's involvement appear to be
8 more serious and involved than it actually was.

10 **5. Objection to Paragraph 84**

11 We agree with the findings made in Paragraph 84 except for one phrase related to dangerous
12 weapons or firearms, which we believe is not supported by the facts as we have stated above in
13 our Objection to Paragraphs 12 and 13. For those reasons which we stated earlier, we request
14 that the Court direct that the phrase "...even though he had indicated he would be the one to bring
15 them" be removed.

16 **DEFENDANT KOPANKOV'S SENTENCING MEMORANDUM**

17 **1. Evgeni's Personal History and Circumstances of the Offense**

19 Evgeni was born into a hard-working family in Bulgaria. His father owns a propane
20 installation business and his mother is employed at a clothing company. Evgeni is extremely
21 close to his family and speaks to his parents daily, often multiple times daily. He has been unable
22 to return to Bulgaria for the past three years and misses his family terribly. Evgeni has never
23 been in trouble, has a very strong work ethic and has worked continuously since coming to the
24 United States as a young man of 22 or 23 in 2011 or 2012. For many years, Evgeni held two
25 jobs. He obtained his U.S. citizenship in 2016 and has built a very successful trucking business
26 through his own hard work. He shares a very strong relationship with his wife Maria, who has
27 also worked continuously managing a salon and also helping Evgeni with his business. Maria is
28 very close with her parents and her entire family supports Evgeni and have difficulty

1 understanding how he could be involved in such an offense. Evgeni and Maria were preparing to
2 start a family.

3 According to Evgeni's brother, Krum,

4 "He somehow evolved into the bigger brother. I am proud of the person he
5 became and honored to be called his brother. When we became adults and I met
6 my current wife, Evgeni helped us acquire the home of our dreams and helped us
7 financially to furnish our place. Ever since we had our two children, he has been a
8 devoted uncle who does everything possible to ensure their wellbeing. I am aware
9 of his plans to have a family of his own, which I hope he is given the chance to
10 accomplish."

11 Evgeni's wife's cousin, Kristian Ivanov writes, in part,

12 "Even though I reside in the United States, I spend most of my time in the Bulgarian
13 community, which is still very conservative about homosexuality in general. When I
14 arrived in Chicago five years ago at the age of 21 I was very afraid and shy to
15 communicate with people. To me, the most important thing was that Evgeni did not
16 push me away for their family and accepted me as a new, equal family member. He
17 made sure to protect me from any verbal or physical abuse, which has happened
18 many times and Evgeni has always been the first to jump in and stand up for me. I
19 will forever be grateful to him for all that he has done and continues to do for the
20 stability of my mental and physical health."

21 Evgeni's friend, Edita Todorova, writes, in part,

22 "My name is Edita Todorova, and I have been a friend of Mariya and Evgeni since
23 2016. I unfortunately suffer from an autoimmune disease call Hashimoto. I shared my
24 worries with Mariya and Evgeni and expressed that I am not sure where I should seek
25 medical help. I could not hide my fear from either of them, but Evgeni took it upon
26 himself to call friends and relatives that suffer for the same disease and connected me
27 with them for help, guidance and support. Because of him, I came in touch with the
28 right doctors and started taking the necessary medication. The reason why I am
sharing this story is because we live in a world where most people are self-absorbed.
Despite the fact that Evgeni is currently struggling with his business being slow due
to the pandemic as well as his undergoing court issues, he made time to help me with
whatever he could. I do no not have family here and I can honestly say its wonderful
to know there is a male figure I can count on."

29 Evgeni's friend, Dr. Svetozara Zehireva, writes, in part,

30 "I have known Evgeni since 2010 and his wife Mariya since 2005. They have been
31 beside me during important life events. With a heavy heart, I can honestly say that I
32 will never forget the fact that Evgeni helped me get out of an abusive marriage back
33 in 2012 and was able to keep me safe from my now ex-husband, who was an

1 alcoholic and drug addict. The hardships that Evgeni helped me overcome will not be
2 forgotten. His acts of kindness did not stop at helping me emotionally and
3 psychologically get over this toxic relationship and escape this awful period of my
4 life. In fact, Evgeni took it upon himself to help my now ex-husband find the help
5 necessary to keep him alive, sober, and out of trouble by finding the right
6 rehabilitation facility that can accommodate him in his hometown in Bulgaria. Even
7 though he made a mistake, I believe he deserves a chance to redeem himself and
8 continue helping others. I truly believe that Evgeni has a big heart full of compassion
9 and kindness.”

10 **2. Evgeni Contributes to the Community**

11 Evgeni has donated on several occasions to the Bulgarian-American Police Association
12 for a scholarship for students to be able to attend college.

13 Approximately four years ago, Evgeni was told by the priest, who is also his friend at his
14 church, that the church was in need of a new roof. Evgeni donated his time to the Bulgarian
15 church in Chicago to help them build a roof. He also donated \$5,000.

16 Seven or eight years ago, Evgeni was asked by his grandparents if he could help their church.
17 Evgeni paid for a painting to be painted at the church.

18 Evgeni has helped many people. He helped his brother pay for an apartment in Bulgaria and
19 made sure he had a car. Evgeni has always been focused on helping others, his family, young
20 people, and the community at large.

21 **3. The Circumstances of The Offense Involving Evgeni Are Mitigating**

22 Evgeni met Borisov three or four years before his arrest. Borisov worked as door security for
23 a nightclub. He was from the same Bularian community as Evgeni. Evgeni knew that in 2019,
24 Borisov was down and out and needed work. Evgeni had purchased the property in Humboldt
25 County and had started a legal marijuana grow business. He also had negotiated to purchase a
26 second property for the same purpose and placed a \$30,000 deposit on the second property. He
27 was determined to become involved in this new business. However, he was still operating his
28 trucking business and living in Chicago so he needed someone to manage, hire workers, etc.
Evgeni had several conversations with Borisov about managing his grow and the purpose of
Borisov’s visit was to show him the properties and see if he wanted to move from Chicago to
Humboldt County to accept the position.

1 Evgeni admits that Borisov started talking about robbing some guy but Evgeni never was
2 interested and largely ignored these comments until Borisov pressed him. He finally agreed to
3 show them an address to the supposed victim, but Evgeni said he had not even figured out where
4 this person lived and was not focused on that. He was arranging for Borisov to visit and focusing
5 on trying to convince Borisov to take the job managing his grow.

6 Evgeni has never been associated with any violence and does not possess weapons. The
7 rumors alleged by Borisov caused Evgeni's involvement to appear more serious and dangerous
8 than it actually was. Consequently, the offense conduct grossly overstates the seriousness of
9 Evgeni's involvement.

10 **Such statements not only impact the Court when considering an appropriate sentence,
11 they will likely impact Evgeni's public safety factors and level of classification within the
12 BOP and may prevent him from a camp designation.**

13 **4. The need for the sentence imposed to reflect (A) the seriousness of the offense, to
14 promote respect for the law, and to provide just punishment for the offense; (B) to
15 afford adequate deterrence to criminal conduct; (C) to protect the public from
16 further crimes of the defendant; and (D) to provide the defendant with needed
17 educational or vocational training, medical care, or other correctional treatment in
18 the most effective manner;**

19 **a. Evgeni's Arrest Was Traumatizing**

20 According to Evgeni, when he was arrested, the police did not identify the charges
21 against him. When he saw the police he thought they were there to arrest the guys for the earlier
22 incident. When he was arrested, he was scared and did not understand why he was being
23 arrested. He was booked into the jail in Eureka and they were asking him questions about "the
24 robbery". Evgeni did not understand the English word, "robbery." According to Evgeni, no one
25 read him his rights or asked if he wanted to talk to an attorney. They kept asking him questions
26 about Borisov. Evgeni tried to call his wife Maria, but did not remember her cellular phone
27 number. He called another friend to ask him to contact her on facebook. He was placed in a cell
28 with Borisov and Brooks for 2-3 days until they transferred him to Alameda County. He still did
not understand the charges against him. Evgeni was so distraught that he did not eat or drink
water for two weeks and lost 40 pounds.

b. Just Punishment and Protection of the Public

As noted above Evgeni’s true involvement in this offense does not involve providing guns or threatening to hurt someone. It is imperative that the actual seriousness of his offense be considered and that the resulting punishment fits the crime to which he was involved. Evgeni knows he should not have agreed to be involved in this scheme. However, as mentioned in paragraph 84 of the PSR, “there is no indication that the defendant had the ability to carry out such a plan given that no dangerous weapons or firearms were found on the defendant at the time he was apprehended by law enforcement”

Evgeni's lack of motivation to be involved and true lack of preparation regarding such an offense must be considered and weighed when determining a just sentence. There is no actual need to protect the public from Evgeni, in fact he has shown a generous propensity to donate time and money to help his community. With respect to deterrence, Evgeni's incarceration was so traumatizing, he remains resolved to never again violate any laws and risk incarceration.

5. The kinds of sentences available and
6. The guidelines and
7. Policy statements

This section, as previously set out in Defendant's Sentencing Memorandum filed on January 26, 2022 (Doc. 139), is deleted as inappropriately suggested or advocated by counsel, even as an 18 U.S.C. 3553(a) factor, as it is inconsistent with defendant's plea agreement and all other representations to the Court. The undersigned counsel apologizes to the Court for any confusion or concern this suggestion or advocacy by counsel had created.

8. The need to avoid unwanted sentencing disparities

This section, as previously set out in Defendant's Sentencing Memorandum filed on January 26, 2022 (Doc. 139), is deleted as inappropriately suggested or advocated by counsel, even as an 18 U.S.C. 3553(a) factor, as it is inconsistent with defendant's plea agreement and all other representations to this Court. The undersigned counsel apologizes to the Court for any confusion or concern this suggestion or advocacy by counsel had created.

11

1 **9. The need to pay restitution to the victim.**

2 There is no restitution owing.

3 **CONCLUSION**

4 The Court must consider a sentence that makes sense and meets all of the objectives of
5 sentencing. Within that context, it is appropriate for the Court to consider the unusual
6 circumstances facing this country during this unprecedeted time of the Covid pandemic and the
7 rapid spread of the new variants.

8 **a. The dire situation in the prison system**

9 The Justice Department, itself, is taking preventative measures to combat the spread of
10 Covid-19 in the prison system. Please see the attached article dated December 21, 2021,
11 reflecting that 36,000 inmates were released on home confinement in order to combat the
12 rampant spread of Covid-19 in federal prisons.

13 <https://www.cnn.com/2021/12/21/politics/inmates-pandemic/index.html>.

14 There have been 274 federal inmate deaths due to Covid!

15 <https://apnews.com/article/federal-prisons- 5be574b4103a2f5420e0d9da2daf5c9c>

16 Aside from the risk of death, the risk of being sick, being unable to breathe or obtain
17 urgent medical care is traumatizing. Further, to prevent the spread of Covid, inmates are
18 spending long hours in isolation which is contributing to mental health issues and suicides.

19 In addition, and as a consequence of the present dire situation, the BOP is experiencing
20 an alarming amount of corruption and abuse by wardens, guards and prison staff as referenced in
21 the article dated November 14, 2021. <https://apnews.com/article/federal- prisons- 5be574b4103a2f5420e0d9da2daf5c9c>

22 Simply stated, incarceration is a much harsher form of punishment today than it was three
23 years ago. The Court must consider this fact when imposing sentence.

24 **b. The possibility of home confinement and community service**

25 For the following reasons, and taking into consideration the present circumstances facing
26 this country and the singular wrongful conduct of Evgeni and his ability to contribute to
27 alleviating the difficult times facing all of us, it is respectfully requested that this Court consider
28 the option of home confinement and community service

1 Since 2016, Evgeni has operated a successful trucking business. Prior to his arrest, his
 2 business was thriving, and he was earning \$2,000,000 to \$4,000,000 in gross income. His
 3 business suffered while he was in custody. Since his drivers were not being paid, they abandoned
 4 the trucks in the street and he was required to pay over \$100,000 to retrieve them from towing
 5 yards. Some of the trucks were damaged. Upon his release, Evgeni worked hard to recover his
 6 trucking business. Then the Covid-19 pandemic slowed his business again. He has been having
 7 difficulty finding drivers and has been working long hours to try and keep his trucking business
 8 afloat. Due to his involvement in this offense, the banks have closed his business accounts.

9 The court must consider punishment as part of the sentence in this case. However, as
 10 previously stated, the punishment must fit the seriousness of the offense. Evgeni's conduct was
 11 indeed serious and he knows that he should not have agreed to become involved. However, he
 12 has never been involved in dangerous behavior, he is not involved with guns and he is not a
 13 danger to the public. He has suffered trauma during his incarceration and damage and loss of his
 14 trucks while he was in jail, as well as the closure of his business accounts making it extremely
 15 difficult to conduct business. He deeply regrets his agreement to become involved in this
 16 ridiculous and potentially dangerous scheme.

17 Currently, the U.S. is short 80,000 truck drivers amid the supply-chain crisis. Please see
 18 the attached article. <https://www.businessinsider.com/us-needs-truckers-trucking-association-president-says-2021-10#:~:text=The%20US%20has%20a%20shortage%20of%20around%2080%2C000,roughly%2030%25%20from%20before%20the%20pandemic%2C%20Spear%20said>.

20 At a time when the BOP is releasing inmates to home confinement to avoid overcrowding
 21 amid the rampant spread of the Covid virus, and at a time when the country, as a result, has an
 22 actual and serious need for truck drivers, we request that the Court consider a sentence of home
 23 confinement and community service, with a requirement that Evgeni perform whatever
 24 community service deemed appropriate for him in helping to alleviate the supply-chain crisis and
 25 provide as many drivers as possible to assist the country's serious shortage of 80,000 truck
 26 drivers.

27 We live in extraordinary times. Extraordinary actions must be taken to not only protect
 28 society but to allow even sentenced citizens the opportunity to be punished in a way that also
 helps to protect and to repay society.

1 Dated: February 7, 2022
2
3

Respectfully submitted,

4 *s/*David M. Michael
5 DAVID M. MICHAEL

6 Attorney for Defendant EVGENI KOPANKOV
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CERTIFICATE OF ELECTRONIC SERVICE

11 I hereby certify that, on February 7, 2022, I caused to be electronically filed the foregoing
12 with the clerk of the court by using the CM/ECF system, which will send a notice of electronic
13 filing on all ECF-registered counsel by operation of the Court's electronic filing system. Parties
14 may access this filing through the Court's system.
15
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17

18 *s/*David M. Michael
19 DAVID M. MICHAEL

20 Attorney for Defendant EVGENI KOPANKOV
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